

Settlement/Hearing: July 24<sup>th</sup>, 2008  
Time: 10:00 A.M.

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13  
Case No. 08-11151 MG

**MICHAEL G. VINIERIS,**

**NOTICE OF SETTLEMENT**

Debtor(s)

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**PLEASE TAKE NOTICE**, that an *Order*, a true copy of which is annexed hereto, will be presented for signature to the Hon. Martin Glenn, United States Bankruptcy Judge, on the 24<sup>th</sup> day of July, 2008 at 10:00 A.M. at the United States Bankruptcy Court, U.S. Customs House, One Bowling Green, New York, New York 10004.

Hearings on Objections, if any, to be conducted same date and time in Courtroom 610. Written objections or counterorders must be submitted to chambers by no later than close of business *three (3) days prior* to settlement.

**OBJECTIONS TO PROPOSED ORDER:**

All objections to a proposed order **MUST HAVE** the settlement date of the original notice typed or written on the first page in the upper right-hand corner of the document.

**COUNTER-PROPOSED ORDERS:**

All counter-proposed orders should be clearly denominated as such, with the return date of the original proposed order in the upper right-hand corner of the first page. A

copy of the transcript, if a hearing was held, must be submitted with the counter-proposed order.

Dated: White Plains, New York  
June 30<sup>th</sup>, 2008

/s/ Jeffrey L. Sapir  
**Jeffrey L. Sapir (JLS0938)**  
**Chapter 13 Trustee**  
**399 Knollwood Road**  
**White Plains, New York 10603**  
**Chapter 13 Tel. No. 914-328-6333**

**TO:** United States Trustee  
33 Whitehall Street  
New York, New York 10004

Michael G. Vinieris  
711 West End Avenue #5JN  
New York, New York 10025

Todd S. Cushner, Esq.  
Cushner & Garvey, LLP  
155 White Plains Road # 207  
Tarrytown, New York 10591

Cullen & Dykman  
100 Quentin Roosevelt Blvd.  
Garden City, New York 11530

Greenpoint Savings Bank  
P.O. Box 84013  
Columbus, Georgia 31908

Private Capital Group  
2 Jericho Plaza # 205  
Jericho, New York 11753

Corinthian Condominiums  
330 East 38<sup>th</sup> Street  
New York, New York 10016

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
IN RE:

Chapter 13  
Case No. 08-11151 MG

**MICHAEL G. VINIERIS,**

Debtor  
-----X

**ORDER DISMISSING CHAPTER 13 CASE**

The Court finds that cause exists to dismiss this case under 11 U.S.C. §1307(c )(1) in that the debtor has caused unreasonable delay that is prejudicial to creditors.

a. failing to provide all documentation as required by the Chapter 13 trustee.

The Court further finds that the debtor has failed to comply with 11 U.S.C. §521(i) by failing to timely file documents as required under 11 U.S.C. §521(a)(1);

The Court further finds that the debtor failed to comply with 11 U.S.C. §521(e)(2)(A)(i) in that the debtor failed to provide the trustee with copies of federal tax returns for the most recent tax year ending immediately before the commencement of the case, within seven (7) days prior to the meeting of creditors scheduled pursuant to 11 U.S.C. §341(a).

The Court further finds that cause exists to dismiss this case under 11 U.S.C. §109(e) on the ground that the debtor's secured debt exceeds the \$1,010,650.00 limitation.

**IT IS HEREBY ORDERED THAT:**

Pursuant to 11 U.S.C. §§1307 (c )(1), 521(i) and 521(e)(2)(B), and 109(e) this

Chapter 13 case is hereby dismissed.

Dated: New York, New York  
July , 2008

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**UNITED STATES BANKRUPTCY JUDGE**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
IN RE:

Chapter 13  
Case No. 08-11151 MG

**MICHAEL G. VINIERIS,**

**TRUSTEE'S AFFIDAVIT**

Debtor(s)

-----X

STATE OF NEW YORK )  
COUNTY OF WESTCHESTER ) ss.:

Jeffrey L. Sapir, being duly sworn, deposes and says:

1. He is the standing Chapter 13 Trustee.

2. The debtor filed a Chapter 13 proceeding on April 1<sup>st</sup>, 2008.

3. The debtor failed to comply with the provisions of 11 U.S.C. §1307(c)(1).

4. The debtor is in violation of 11 U.S.C. §521(i) of the Bankruptcy Code which requires the debtor to file, in part, payment advices and evidence of other payments received within 60 days, inclusive of monthly operating statements.

5. The debtor is in violation of §521(e)(2)(A)(i) of the Bankruptcy Code which requires the debtor to provide *seven (7) days prior to the §341(a) meeting of creditors* ,copies of federal tax returns for the most recent year immediately prior to the commencement of the case.

6. The debtor fails to qualify under Chapter 13 on the ground that the debtor's secured debt exceeds the \$1,010,650.00 limitation, pursuant to an unlisted judgment in excess of \$9,000,000.00.

7. The debtor appeared but failed to be examined at the 341(a) meeting of creditors.

8. At the aforesaid confirmation hearing held on June 26<sup>th</sup>, the debtor's case demonstrated infeasibility and an inability to confirm.

**WHEREFORE**, the trustee respectfully requests that the annexed order dismissing

this case be signed.

/s/ Jeffrey L. Sapir  
**Jeffrey L. Sapir**

Sworn to before me this  
30<sup>th</sup> day of June, 2008  
/s/ Jody L. Kava

Jody L. Kava  
Notary Public, State of New York  
No. 4836806  
Qualified in Westchester County  
Term Expires: 10/31/09

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

**MICHAEL G. VINIERIS,**

Chapter 13  
Case No. 08-11151 MG

Debtor(s)

-----X

## AFFIDAVIT OF MAILING

STATE OF NEW YORK )  
COUNTY OF WESTCHESTER ) ss.:

Lois Rosemarie Esposito, being duly sworn, deposes and says:

I am not a party to the action herein, I am over the age of 18 years and reside in the County of Westchester, State of New York. On \_\_\_\_\_, 2008, I served a true copy of the within document, to the herein listed parties at the address(es) designated for that purpose, by mailing same in a properly sealed envelope with postage prepaid thereon, in an official depository of the United States Postal Service within the State of New York to the following:

**TO::** United States Trustee  
33 Whitehall Street  
New York, New York 10004

Michael G. Vinieris  
711 West End Avenue #5JN  
New York, New York 10025

Todd S. Cushner, Esq.  
Cushner & Garvey, LLP  
155 White Plains Road # 207  
Tarrytown, New York 10591

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100 Quentin Roosevelt Blvd.  
Garden City, New York 11530

Greenpoint Savings Bank  
P.O. Box 84013  
Columbus, Georgia 31908

Private Capital Group  
2 Jericho Plaza # 205  
Jericho, New York 11753

Corinthian Condominiums  
330 East 38<sup>th</sup> Street  
New York, New York 10016

/s/ Lois Rosemarie Esposito  
**Lois Rosemarie Esposito**

Sworn to before me this  
30<sup>th</sup> day of June, 2008

/s/ Jeffrey L. Sapir  
Jeffrey L. Sapir  
Notary Public, State of New York  
No. 60-8764500  
Qualified in Rockland County  
Cert. Filed in Westchester County  
Term Expires: 12/31/10